

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.622(b),) MM Docket No. 01-306
Table of Allotments,) RM-10152
Digital Television Broadcast Stations)
(Hartford, Connecticut))
)

ORIGINAL

To: Chief, Video Services Division

REPLY COMMENTS OF
TRIBUNE TELEVISION COMPANY

Tribune Television Company, licensee of WTIC-TV-DT, Hartford, Connecticut, by its undersigned attorney, hereby files its reply to the Comments filed by Outlet Broadcasting in opposition to the FCC's proposal to change WTIC-DT's channel from 5 to 31. As demonstrated more fully below, Outlet's opposition is detached from any consideration of the public interest and should be summarily rejected.

When stripped to its essence, Outlet's opposition is nothing short of remarkable. Outlet's opposition does not challenge the Commission's determination in the Notice of Proposed Rulemaking that the proposed change in WTIC-DT's channel from 5 to 31 will result in an overall increase in interference free television service in the highly congested northeast corridor of over 720,000 people.¹ Instead, Outlet urges the Video Services Division ("VSD") to reject the proposed channel change because the operation of WTIC-DT on channel 31 is

¹ See *Amendment of Section 73.622(b), Table of Allotments, Digital Broadcast Stations (Hartford, Connecticut)*, Notice of Proposed Rulemaking, MM Docket No. 01-306, RM-10152, DA-2468, released October 26, 2001.

predicted to cause new incremental interference to 1,854 people within WVIT's protected NTSC service area, a figure that Outlet concedes represents a miniscule 0.043 percent of WVIT's NTSC baseline Grade B service population of 4,345,134. Nowhere in its opposition does Outlet acknowledge this dramatic population difference, much less explain how the VSD could grant Outlet's opposition consistent with its mandate to serve the public interest.

Upon closer review, however, Outlet's opposition becomes even more remarkable. As demonstrated in the attached engineering statement, WTIC-DT's proposed operation on channel 31 is actually predicted to cause net incremental interference to only 537 people within WVIT's DMA.² This figure represents 0.012 percent of WVIT's baseline NTSC Grade B service population.³ Fully 70 percent of the net incremental interference complained of by Outlet is predicted to occur to WVIT's NTSC service area in the adjacent Springfield-Holyoke DMA, a DMA where the public is already served by another NBC affiliate (WWLP). These facts alone warrant the summary denial of Outlet's opposition.

Even if the VSD decides to evaluate the underlying arguments in support of Outlet's opposition, summary denial is still warranted. First, Outlet's argument in support of an absolute prohibition of incremental DTV interference to WVIT's NTSC service area flies in the face of the entire thrust of the Commission's DTV rules. In creating the DTV table that effectively doubled the number of television stations in a smaller amount of spectrum, the FCC was necessarily forced to adopt a flexible approach to its traditional evaluation of a television station's service area. The Commission's decision to rely on a flexible engineering approach rather than spacing rules to define a NTSC television station's protected service area reflects the

² See Engineering Statement of Robert duTreil, Jr. in Support of Reply to Comments of Outlet Broadcasting, at 2 (January 17, 2002) (attached hereto).

balancing of a number of conflicting public policy interests. WVIT's claim for an absolute zero interference standard harkens back to the days when the NTSC service was King and the NTSC spacing rules were sacrosanct. For better or worse, those days are over.

The heart of Outlet's opposition involves a single sentence from a 1998 Mass Media Bureau DTV Processing Public Notice that Outlet cites out of context in an attempt to gerrymander a zero interference policy where one does not exist.⁴ In particular, Outlet follows a passage from page 3 of the Public Notice with a single sentence from page 8 of the Public Notice in a vain attempt to fashion a zero interference policy where none exists.⁵ As demonstrated below, Outlet's reliance on a single sentence from page 8 of the Public Notice is seriously misguided.⁶

As directed by the Commission following the adoption (for the first time) of a *de minimis* interference standard in the Order on Reconsideration of the Sixth DTV Report and Order, the Mass Media Bureau issued a Public Notice addressing the application of the *de minimis* standard. After describing the methodology to be used in calculating the 2 percent and 10 percent interference numbers for both DTV and NTSC stations, the Mass Media Bureau included the following sentence under the "Rounding and Calculation tolerances" sub-heading: "Determinations of compliance with the rules will be based on the Commission's implementation of the [OET Bulletin No. 69] software, *with the result rounded to the nearest*

³ *Id.*

⁴ Outlet Opposition at 2-3.

⁵ *Id.* at 3.

⁶ The passage from page 8 relied upon by Outlet reads as follows: "Thus, for example, interference to 2.04% of a station's population will be considered *de minimis* unless it exceeds the 10% threshold." Outlet Opposition at 3.

tenth of a percent.”⁷ This passage clearly illustrates that rounding the predicted incremental interference to WVIT to the nearest tenth of a percent was entirely consistent with the Public Notice.

The sentence relied upon by Outlet to support its zero interference standard immediately follows the passage quoted above. For proper context, the entire rounding and calculations tolerances subsection appears below (the sentence relied upon by Outlet appears in italics):

Rounding and calculation tolerances. Variations in the implementations of OET Bulletin No. 69, including use of different computer platforms, may produce slightly different results. Determinations of compliance with the rules will be based on the Commission’s implementation of the software, with the result rounded to the nearest tenth of a percent. *Thus, for example, interference to 2.04% of a station’s population will be considered de minimis unless it exceeds the 10% threshold.* This is consistent with the accuracy in Appendix B of the *Order*, where DTV interference to NTSC service is specified to a tenth of a percent. DTV maximum ERP values and the ERP values along individual azimuths will be rounded to the nearest tenth of a dB. This is consistent with the rule for NTSC stations found Section 73.615. As stated in Section 73.622(d)(5), distance calculations will be rounded to the nearest tenth of a kilometer. Finally, for NTSC station minor change applications, which may not cause interference to DTV allotments or authorizations, we will round the determination of interference to the nearest percent.⁸

Outlet’s attempt to read this highlighted passage to support its zero interference argument ignores the context in which the sentence appears and the entire thrust of the Additional DTV Processing Public Notice. When the rounding and tolerances section is reviewed in its entirety, the Mass Media Bureau clearly authorized rounding to the nearest tenth of a percent, noting specifically that this was the level of accuracy used by the Commission in the Sixth Report &

⁷ “Additional Application Processing Guidelines for Digital Television (DTV),” Mass Media Bureau Public Notice, at 8 (August 10, 1998) (emphasis added) (hereinafter “1998 DTV Processing Public Notice”).

Order “where DTV interference to NTSC service is specified to a tenth of a percent” – the very circumstances at issue in Outlet’s complaint.

Given that sentences both before and after the passage relied upon by Outlet support the concept of rounding predicted interference to the nearest tenth of a percent, if the Bureau intended to announce a different interference standard for 10 percent stations, it would certainly have done more to articulate and define this different standard. The Bureau did exactly that in announcing a different interference rounding standard for NTSC into DTV interference later in the same section. In fact, far from confirming that rounding to the nearest tenth of a percent is inappropriate, the passage relied upon by Outlet confirms only that stations already predicted to receive more than 8 percent interference cannot be required to accept an additional 2 percent interference from a new proposal. In other words, if station XYZ is predicted to receive 9 percent incremental interference to its baseline population, it can only receive 1 percent incremental interference from a station’s new proposal rather than the standard 2 percent level. For all these reasons, Outlet’s attempt to create a zero interference standard for WVIT should be rejected.

Moreover, the Mass Media Bureau’s treatment of incremental interference to DTV allotments and authorizations from NTSC minor change applications also debunks Outlet’s claim for a zero interference standard. On Reconsideration of the Sixth DTV Report & Order, the Commission affirmed its earlier decision that NTSC modification applications not granted before July 25, 1996 would be subject to the condition that they not cause interference to any

⁸ *Id*

DTV allotment or authorization.⁹ As indicated at the end of the passage quoted above, the Mass Media Bureau recognized that NTSC minor change applications “may not cause interference to DTV allotments or authorizations” but nonetheless allows rounding of any predicted interference “to the nearest percent” for these applications.¹⁰ Thus, despite the FCC’s stated policy of no new interference, NTSC minor change applications are permitted to cause incremental interference to DTV allotments or authorizations provided that the incremental level of interference does not round to a percent.

This unchallenged decision of the Mass Media Bureau undermines Outlet’s claim that the Commission’s decision to adopt the 2%/10% test in same order should somehow translate into an absolute prohibition on incremental interference to stations at the 10 percent interference level. Simply put, there are no absolute interference protections under the Commission’s DTV orders. Outlet’s argument also ignores that fact the Mass Media Bureau has provided greater interference protection to stations at the 10 percent interference level by requiring rounding of any new incremental interference to a tenth of one percent, rather than the 1 percent figure it allows for NTSC in DTV interference. For all these reasons, the VSD should reject Outlet’s efforts to fashion a zero interference policy for WVIT here.

Finally, Tribune Television is not opposed to the imposition of precise frequency offset on the proposed DTV channel 31 allotment. Tribune Television is opposed, however, to Outlet’s request that the VSD impose a “substantial collocation” condition on the DTV 31

⁹ *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, Memorandum Opinion and Order on Reconsideration of the Sixth Report & Order, FCC 98-24, MM Docket No. 87-268, ¶ 137 (hereinafter “Sixth Reconsideration R&O”).

¹⁰ See 1998 DTV Processing Public Notice at 8.

allotment.¹¹ Outlet has identified no legitimate basis to support this requirement. In particular, should Tribune Television propose to locate WTIC-DT's transmission facility away from its current Rattlesnake Mountain site, Outlet has failed to identify how it would not be protected from interference by the application of the *de minimis* interference standard and OET 69.¹²

For all these reasons, Tribune Television urges the Video Services Division to deny Outlet's opposition and approve the proposed DTV channel change for WTIC from channel 5 to channel 31.

Respectfully submitted,

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Dated: January 22, 2002

¹¹ Once the Commission approves the proposed DTV channel change, Tribune Television fully expects to complete a final lease agreement to locate WTIC-DT on Rattlesnake Mountain.

¹² Outlet's professed concerns about the lack of signal correlation between WTIC-DT and WVIT in the event WTIC-DT should move from Rattlesnake Mountain have already been factored into OET 69. See Sixth Reconsideration R&O ¶ 94.

ENGINEERING STATEMENT
IN SUPPORT OF REPLY TO COMMENTS OF OUTLET BROADCASTING, INC.
PREPARED FOR
TRIBUNE TELEVISION CORPORATION
TELEVISION STATION WTIC-DT
HARTFORD, CONNECTICUT

This Engineering Statement was prepared on behalf of Tribune Television Corporation, licensee of WTIC-TV, Hartford, Connecticut in support of a Reply to Comments of Outlet Broadcasting, Inc. This statement provides a detailed depiction of the predicted interference from the proposed allotment facility for WTIC-DT on Channel 31 to the licensed facility of WVIT(TV), New Britain, Connecticut, on Channel 30.

An analysis of the predicted interference to the WVIT(TV) facility from the proposed WTIC-DT facility on Channel 31 was conducted under the procedures of FCC Office of Engineering and Technology Bulletin No. 69 (OET-69). The analysis reveals a total predicted interference population of 3,323, with a net new interference population of 1,854. Given a baseline population figure of 4,345,134 for WVIT(TV), the net new interference to WVIT(TV) is 0.043%.

As Outlet Broadcasting, Inc. points out in its comments, "...WVIT is already predicted to receive interference to 13.2% of the population within the WVIT noise-limited contour."* The minimal additional population caused by the WTIC-DT proposal is not enough to change this figure. In fact, the FCC considered and rejected the notion that the WTIC-DT proposal failed to meet the 10% criteria when it issued a Notice of Proposed Rule Making for the WTIC-DT proposal. In the Petition for Rule

* See Engineering Statement of Denny & Associates, P.C. at Pages 1 and 2.

Making for Channel 31, the predicted interference population to WVIT(TV) was stated as 1,854 with a net change in the WVIT(TV) percent interference of 0.0%.[†]

To further illustrate the minimal nature of the predicted interference to WVIT(TV) from the proposed WTIC-DT facility, maps have been prepared illustrating the location of the interference relative to the WVIT(TV) transmitter site and the Designated Market Area (DMA) for Hartford as established by Nielsen Media Research. The attached Figure 1 is a map showing all of the predicted interference points to WVIT(TV) based on the OET-69 analysis without consideration of "masking" from other interference contributors. Figure 2 depicts the net interference points with non-zero population considering the interference masking effects of other interference contributors.

As illustrated in Figure 1, 6 interference points out of a total of 24 points fall within the Hartford DMA. Considering the net interference points in Figure 2, 4 out of a total of 10 non-zero population interference points fall within the Hartford DMA. The total net new predicted interference population to WVIT(TV) amounts to 537 within the Hartford DMA. This is 29% of the total net new interference to WVIT(TV).

The proponent concedes the efficacy of pilot carrier frequency offset. It is noted that the WVIT(TV) aural carrier would be located a nominal 240 kHz below the lower boundary of Channels 30 and 31.

Louis Robert du Treil, Jr., P.E.

January 17, 2002

[†] See Engineering Statement at Page 2 in Supplement to Petition for Rulemaking, May 7, 2001.

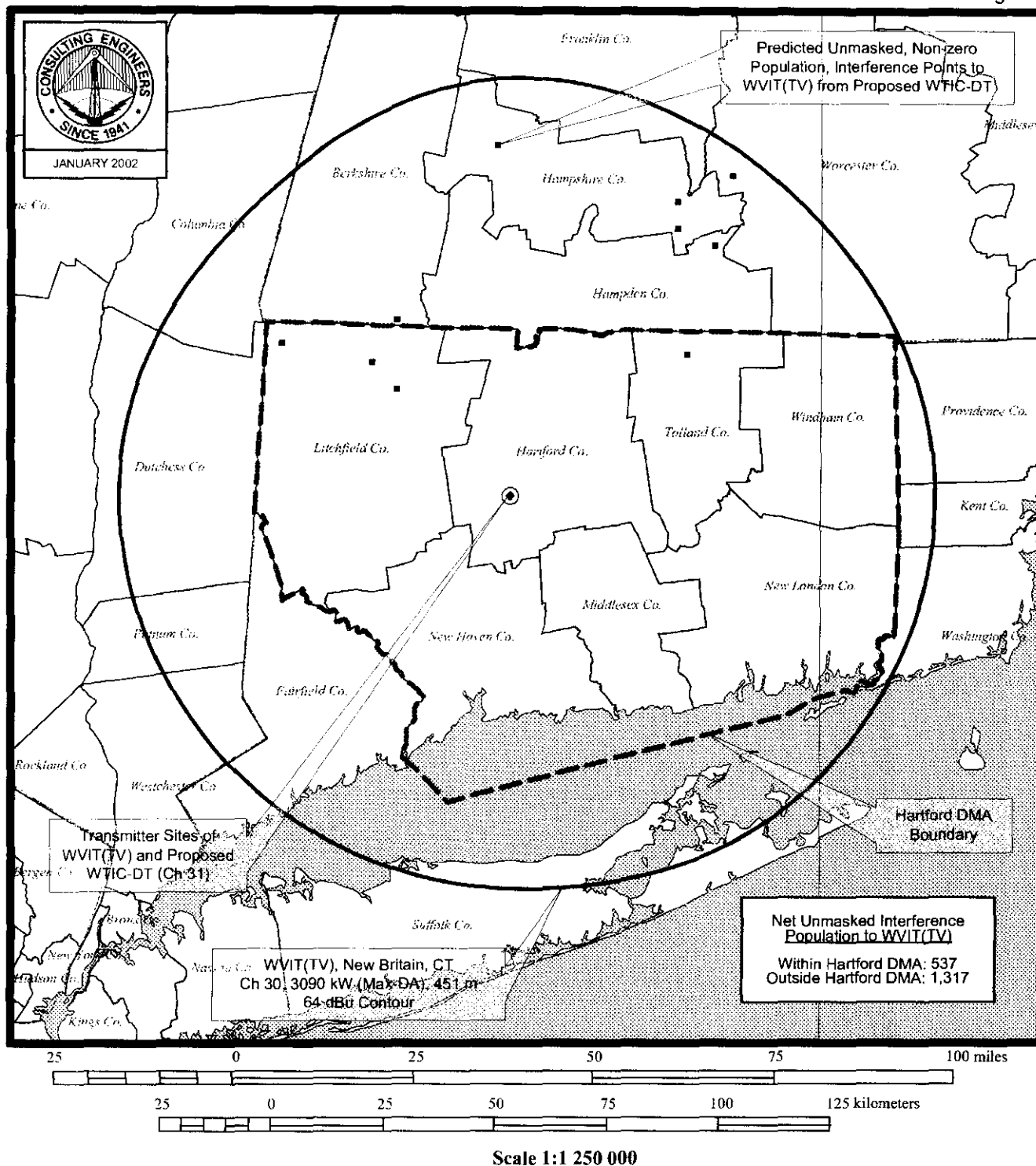
Figure 1



PREDICTED TOTAL INTERFERENCE TO WVIT(TV)

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

Figure 2



PREDICTED UNMASKED INTERFERENCE TO WVIT(TV)

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

CERTIFICATE OF SERVICE

I, Tami Smith, hereby certify that on this 22nd day of January, 2002, a copy of the preceding Reply Comments of Tribune Television Company was served via first class mail on the following:

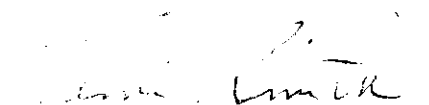
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